

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of the License Application
of Saint Paul Firearms Company for a
Firearms License

FIRST PREHEARING ORDER

A prehearing conference was held on Friday, October 30, 1998, in St. Paul.

Appearing on behalf of St. Paul Firearms Co., Applicant, were Joseph A. Rymanowski, Jr., Suite 201, 4105 North Lexington Avenue, Arden Hills, Minnesota 55126, and David Feinwachs, Attorney at Law, 3-140 Carlson School of Management, 321 – 19th Avenue South, Minneapolis, Minnesota 55455-9940. Appearing on behalf of the Hamline-Midway Neighborhood Stability Coalition, a potential intervenor herein, were Kathleen Winters, Attorney at Law, 1483 Breda Avenue, St. Paul, Minnesota 55108, and Laura Melnick, Attorney at Law, 1697 Englewood Avenue, St. Paul, Minnesota 55104. Appearing on behalf of the City of St. Paul was Assistant City Attorney Virginia D. Palmer, 400 City Hall, 15 West Kellogg Boulevard, St. Paul, Minnesota 55102.

Based upon all of the files and proceedings herein, the Administrative Law Judge makes the following:

ORDER

1. The potential intervenors must file a petition to intervene no later than November 4, that date being a date of receipt by the Administrative Law Judge and Mr. Rymanowski. If the Applicant objects to the petition, then it shall file its objection in a similar manner by the close of business on November 5. In both cases, facsimile transmission is acceptable.

2. The issues to be determined at the hearing are the same as those listed by Judge Beck in his Findings of Fact, Conclusions of Law and Recommendation issued in January of 1977, with the understanding that the first and fourth issues are, as a practical matter, merged into one issue.

3. Evidence relating to the issues to be decided must be evidence of events which occurred after February 2, 1996.

4. All parties shall, by the close of business on November 13, fax or otherwise deliver to the others a witness list, a summary of the testimony of each witness, and a copy of all documents which they intend to introduce at the hearing.

5. Any further discovery shall be by agreement of the parties, or, if agreement is not possible, then by order of the Administrative Law Judge. The Administrative Law Judge will accept telephonic requests and conduct telephonic conferences in order to expedite these matters.

6. The order of presentation shall be the City, SPFC, and the Neighborhood. The burden of proof on all issues is upon the Applicant, except that the burden of showing that Applicant will operate as a public nuisance is upon the neighbors.

Dated this 4th day of November, 1998.

ALLAN W. KLEIN
Administrative Law Judge

MEMORANDUM

The most challenging topic discussed in the prehearing conference was the scope of the hearing and the limitation on what evidence would be allowed.

The decision to limit the evidence to events which occurred after December 2, 1996, was based upon the wishes of the City Council as expressed in its resolution of September 23 which referred this matter to an Administrative Law Judge for hearing. In that resolution, the Council noted that the instant application is made by the same applicant, for the same license, for the same premises, with the same opposition, as was previously considered by the Council following a full ALJ hearing, but that the Applicant has stated that there are facts concerning the current application which are new or additional to those which were considered in the previous application. The Council requested that the ALJ not relitigate or take testimony as to issues which were determined in the previous hearing unless the parties made a showing that they intended to introduce evidence of material facts that (1) are relevant to the issues in this current hearing, and (2) relate to matters or events that have arisen since the previous hearing.

It should be noted that the previous hearing resulted in the Council's denial of the application, and no appeal was taken from that denial. The time for appeal has now expired. The question at this juncture is whether there are any new facts, either resulting from new events or the passage of time, which should be brought to the attention of the Council as they make their decision on this new application. Although it is a new application, for the reasons stated in the Council's resolution, that does not mean that it is necessary to relitigate all of the matters which were discussed in the prior application. Instead, the purpose of this hearing is to determine what, if anything, has changed that the Council ought to know about as it decides this new application.

AWK